

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by Sri Miriyala Yedukondalu, S/o. Ramachandrayya, resident of Thantikonda (Village), Gokavaram (Mandal), East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No.149/2005, dated:26.05.2009 in respect of land an extent of Acs. 4.19 in Survey No: 63 and Acs. 1.00 in Survey No: 121/5 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District - Dismissed-Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.64

Dated:30.10.2023
Read the following:

1. Revision Petition filed by Sri Miriyala Yedukondalu, S/o. Ramachandrayya, resident of Thantikonda (V), Gokavaram (M), East Godavari District before the Hon'ble Dy.CM(TW), dated.17.06.2009.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.149/2005, dated:04.01.2013.

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ORDER:

In the reference 1st read above, Sri Miriyala Yedukondalu, S/o. Ramachandrayya, R/o. Thantikonda (V), Gokavaram (M), East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Siitharamaraju District in CMA No. 149/2005, dated:26.05.2009 in respect of land an extent of Acs. 4.19 in Survey No: 63 and Acs. 1.00 in Survey No: 121/5 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District.

2. Brief history of the subject case:

- a) The Special Deputy Tahasildar (TW), Devipatnam (M), Alluri Sitharamaraju District has filed a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Sri Miriyala Yedukondalu, S/o. Ramachandrayya and another).

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b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry the Petition Scheduled Land was registered after 1/70 under Document No. 961/1970 at Korukonda Sub-Registrar at Korukonda Mandal and violation of 3(1)(a) of Regulation 1 of 70 it is held that the possession and enjoyment of the land by the Respondents is in violation of Section 3(1) (a) of Regulation of 1/70 and all executive directions of Government and is liable for ejection.

c) Hence, The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3(2) (a) of APSALTR 1/59 as amended by 1/70 has ordered for ejection of non tribal respondents and their men if any from for restoration of the same to Government for onward assignment to eligible tribals. The Mandal Revenue Ofcer, Devipatnam is directed to implement the order and report compliance vide LTRP No.61/2004, dated.22.06.2004 and LTRP No. 336/2004, dated: 24.05.2005.

d) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Miriyala Yedukondalu, S/o. Ramachandrayya, Tandikonda Village, Gokavaram Mandal, East Godavari District has filed an appeal against the orders LTRP No.61/2004 dated.22.06.2004 and LTRP No.336/2004, dated.24.05.2005 before the Additional Agent to Govt. cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has allowed the appeal filed by Sri Miriyala Yedukondalu, S/o. Ramachandrayya, Tandikonda Village, Gokavaram Mandal, East Godavari District with regard to the scheduled property covered by measuring Acs. 4.19 in Survey No: 63 and Acs. 1.00 in Survey No: 121/5 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Sitharamaraju District erstwhile East Godavari District and in CMA No. 149/2005, dated:26.05.2009, uphold the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No.61/2004 dated.22.06.2004 and LTRP No.336/2004, dt.24.05.2005.

3. Aggrieved by the above orders, the Sri Miriyala Yedukondalu, S/o. Ramachandrayya, Tandikonda Village, Gokavaram Mandal, East Godavari District has fled a Revision petition dated.17.06.2009, before the Government of A.P., against the orders of the Additional Agent to the Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.149/2005, dated.26.05.2009 in respect of

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land an extent of Acs. 4.19 in Survey No: 63 and Acs. 1.00 in Survey No: 121/5 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Sitharamaraju District with a request to set aside the orders of LTRP and CMA and direct the respondents to drop all further proceedings against the petitioners in this regard and to pass favourable Order in favour of the petitioner such other or further order as this Hon'ble Govt. may deem fit and proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his Letter dated: 04.01.2003 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.149/2005, dated.26.05.2009 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 15.07.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments fled by both parties counsels, the Revision Authority has observed that:

(I) This Memorandum of Revision Petition is filed by Sri Miriyala Yedukondalu S/o. Ramachandrayya, resident of Thantikonda (V), Gokavaram (M) East Godavari District against the order passed by the Additional Agent to Government, Rampachodavaram, the erstwhile East Godavari District, present ASR District in C.M.A.No.149/2005, dated: 26.05.2009, confirming the order passed by the Special Deputy Collector, Tribal Welfare in LTRP No: 61/2004 dated: 22.6.2004 and LTRP No. 336/2004, dated: 24.05.2005 for restoration of the land of an extent of Acs. 4.19 in Survey No: 63 and Acs. 1.00 in Survey No: 121/5 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Siitharamaraju District to the Government for onward assignment to the eligible tribals after ejecting the non tribal respondent there in /Revision Petitioner.

(II) The matter came for hearing fnally before the Revision Authority on 15.07.2023. Counsel for the Revision Petitioner and the Special Deputy Collector were also present. Heard both sides. The following order is made after perusal of the material documents available on the record.

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(III) The main grounds of the Revision Petitioner is that there is no prohibited transfer of lands involved in the case, and the father of the Petitioner got the lands before the Land Transfer Regulations 1/70 Regulation came into force and after his death, the Revision Petitioner got the subject lands and requested to set aside the impugned order passed in C.M.A.No.149/2005.

(IV) This case was initiated on the complaint filed under section 3(1) of AP Scheduled Area Land Transfer Regulations 1/1959 as amended by LTR 1/1970 by the Special Deputy Tahsildar (TW), Devipatnam Mandal before the Special Deputy Collector, Tribal Welfare who is a prime authority under the Regulations, seeking restoration of the lands in question to the Government for onward assignment to eligible tribals after ejecting Sri Miriyala Yedukondalu. The case is that Sri Miriyala Yedukondalu purchased the subject lands through two registered sale deeds bearing No. 253/70 and 252/70 from Miriyala Venkayamma and Miriyala Vekataramayya. The Special Deputy Collector after due verification of the records observed that the sale transactions took place between non-tribals through two said sale deeds in relation to the subject lands and the possession of such lands by the respondent non tribal/Revision Petitioner is in violation of the Land Transfer Regulation 1 of 1970 and they are void in the eye of law.

(V) Challenging the order passed by the primary authority, an appeal was preferred by the Revision Petitioner here in C.M.A.No.149/2005 which was dismissed on 26.05.2009. This Revision Petition is fled assailing the impugned order passed by the Additional Agent Government, which is for consideration before this Revision Authority.

(VI) The Additional Agent to Government opposed the contention of the Revision Petitioner and furnished para-wise remarks. The Additional Agent to Government stated that an order was passed for an extent of Ac. 4.19 cts covered in Sy. No 63 (LTRP NO 336/2004 dated: 24.5.2005) and Ac 1.00 cts covered in S.No. 121/5 (LTRP No: 61/2004, dated: 22.6.2004) of Pedabhimpalli village of Devipatnam Mandal of East Godavari District and the Revision Petitioner purchased the subject lands through a sale deed bearing No. 253/70 dated:29-5-1970, for an extent of Ac. 1-00 in Sy.No.121.5 out of a total extent of Ac.6.01 from Miriyala Venkayamma and Miriyala Vekataramayya for a consideration amount of Rs.1000/. The Revision Petitioner further purchased an extent of Ac.4.19 covered in Sy. No. 63 out of a total extent of Ac. 8.38 from Miriyala Venkataramayya through a sale deed bearing No. 252/70, dated: 29.5.1970, for a valuable consideration of Rs. 3000/- and that there is no evidence on record to show that the Revision

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Petitioner has been in possession and enjoyment of the lands as such the transactions are hit by the provisions of section 3(1)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation I of 59 as amended by I of 70. The Additional Agent to Government also upheld the orders passed by the Special Deputy Collector passed in LTRP No. 336/2004 and passed an order referring the Appeals in CMA No. 149/2005 and CMA No. 14 of 2007.

(VII) Though the Additional Agent to Government passed an order referring the Appeals in CMA No. 149/2005 and CMA No. 14 of 2007, discussing the orders passed by the Special Deputy Collector, Tribal Welfare passed in LTRP No. 61/2004 and LTRP No. 336/2004 separately, against the Revision Petitioner. However the present Revision Petitioner is filed assailing the order passed by the Additional Agent to Government in respect of orders passed by the Special Deputy Collector, (TW) in LTRP No. 61/2004.

(VIII) The background of cases and rival submissions give rise to following points for consideration.

"Whether the land transfer effected between the non tribals after the commencement of Land Transfer Regulations 1 of 70 is valid in the scheduled area of the State of Andhra Pradesh?"

(IX) The Clause (b) of Section 3(1) which was substituted by Regulation I of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favour of non tribals is prohibited under the Land Transfer Regulations 1 of 70. These Regulations came in to force on 03-02-1970.

(X) The present revision petitioner is in relation to the land an extent of Ac. 1.00 cts. covered in Sy. No. 121/5 (LTRP No. 61/2004, dated. 22.6.2004) of Pedabeempalli village, as scheduled area of Devipatnam Mandal of East Godavari District. Both the primary authority and the Appellate Authority held that the land transfer was effected over the Revision Petition Schedule lands between the non tribals through a registered sale deed bearing No. 253/1970 dated: 29-5-1970 is violative of the provisions of AP Scheduled Area Land Transfer Regulations 1 of 70 which prohibits the transfer of lands between the non tribals also. There is no evidence on the record to show that the non tribals purchaser came in to possession over the Petition Scheduled lands prior to the commencement of Land Transfer Regulations 1 of 70. Hence, the finding given by the Additional Agent to Government is

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valid, and proper in respect of the Revision Petition schedule lands covered by LTRP No. 61/ 2004.

(XI) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that in the case of a transfer of land situate within the scheduled area by a non-tribal in favour of another non-tribal which is absolutely void under the provisions of sub-section (1) of section 3, the non-tribal transferor is not entitled to have the land restored to him and that Clause (a) of subsection (2) of Section 3 of Regulation I of 1959, as amended by Regulation I of 1970, has no application to such a transfer. Even the transferee-non-tribal is also not entitled to retain the property.

(XII) These above reasons are sufficient enough to discard the plea of the Revision Petitioner. The impugned order passed by the Additional Agent to Government, Rampachodavaram does not warrant interference by this Revision Authority.

(XIII) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby dismissed. The impugned order passed by the Additional Agent to Government in C.M.A.No.149 /2005, dated: 26.05.2009 confirming the order passed by the Special Deputy Collector, Tribal Welfare in LTRP No. 61/2004, dated: 22.06.2004 is hereby upheld. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.149 /2005, dated: 26.05.2009 are hereby upheld and the Revision petition filed by Sri Miriyala Yedukondalu, S/o. Ramachandrayya, resident of Thantikonda (V), Gokavaram (M) East Godavari District against in C.M.A.No.149 /2005, dated: 26.05.2009 with regard to land an extent of Acs. 4.19 in Survey No: 63 and Acs. 1.00 in Survey No: 121/5 situated at Pedabeempalli village of Devipatnam Mandal, Alluri Siitharamaraju District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

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7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter. Accordingly, acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

To

The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.

The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)

The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288

The Tahsildar, Devipatnam Mandal, Alluri Sitharamaraju District.

Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.

Sri Miriyala Yedukondalu, S/o. Ramachandrayya,
R/o. Tantikonda Village, Gokavaram Mandal,
East Godavari District.

Copy to:

The P.S. to Hon'ble Dy. Chief Minister (TW)

The P.S. to Secretary (TW).

The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
Vijayawada.

SF/SC.

// FORWARDED :: BY ORDER //


SECTION OFFICER
